

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

FILED
CLERK'S OFFICE

MAY 29 2003

DIANNE MARLON,)
 PLAINTIFF,)
 VS.)
WESTERN NEW ENGLAND)
COLLEGE,)
 DEFENDANT)
_____)

Case No.: 01-12199-FHF

U.S. DISTRICT COURT
DISTRICT OF MASS.

DEFENDANT WESTERN NEW ENGLAND COLLEGE'S ASSENT TO IMPOUNDMENT
OF DOCUMENTS SUBMITTED BY DEFENDANT AND OBJECTION TO IMPOSITION
OF SANCTIONS FOR ALLEGED VIOLATION OF PROTECTIVE ORDER

Now comes the Defendant, Western New England College, through its attorney,
and objects to the Imposition of sanctions on Defendant as requested by Plaintiff.

As grounds for this Assent and Objection:

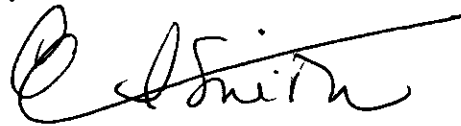
1. Defendant assents to the impoundment of these records with the reservation that these documents be available prior to trial and for use during trial after sufficient notice to Plaintiff's counsel.
2. The documents contained in Exhibits 33 & 34 in support of Defendant's Motion for Summary Judgment were not disclosed to any party other than those captioned in the above matter and this Honorable Court. (See Affidavit of Attorney Cheryl I. Smith)
3. As such, the Defendant submits that Plaintiff has not been embarrassed, oppressed, or otherwise harmed by the inadvertent inclusion of these documents.

As Plaintiff has not been harmed by this inadvertent inclusion, the imposition of sanctions is unnecessarily punitive. Therefore, Plaintiff's Motion for Imposition of Sanctions against Defendant for violation of said Protective Order should be denied and Plaintiff's Motion to Impound Plaintiff's Psychiatric Records should be granted.

Respectfully submitted,

Western New England College

By its attorney:



Cheryl I. Smith
BBO No. 542492
Western New England College
1215 Wilbraham Rd.
Springfield, MA 01109
(413) 782-1542

CERTIFICATION UNDER L.R. 7.1

I hereby certify that I have made a good faith effort to confer and have attempted in good faith to resolve or narrow the issues contained in the forgoing motion.



Cheryl I. Smith

CERTIFICATE OF SERVICE

I, Cheryl I. Smith, hereby certify that I have this day sent a copy of the foregoing document by first class mail and certified mail, postage prepaid, directed to all counsel of record.

Dated: May 28, 2003



Cheryl I. Smith

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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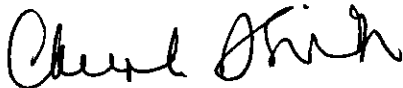
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AFFIDAVIT OF ATTORNEY CHERYL I. SMITH

I, Cheryl I. Smith, Counsel of record for Defendant Western New England College, do hereby depose and state the following of my own personal knowledge and belief:

1. That documents contained in Exhibits 33 & 34 in support of Defendant Western New England College's Motion for Summary Judgment were not disclosed to any party other than those captioned in the above matter and the Court in which this matter is being heard.
2. The inclusion of Exhibits 33 & 34 in Defendant's Motion for Summary Judgment was done so inadvertently and was not willful or wanton in any way.

I hereby swear under the pains and penalties of perjury that the foregoing is true and accurate.



Cheryl I. Smith

5/27/03
Date